IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4948 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ RAJYA THAKOR SAMAJ

Versus

STATE OF GUJARAT

Appearance:

MR Mahesh P. Prajapati for Mr.CH SHAH for Petitioner

Mrs. R.V. Acharya,GOVT PLEADER for Respondent No. 1, 3

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 24/08/2000

ORAL JUDGEMENT

1. As per Annexure-I to the petition, an order dated 30th July 1991 was passed by the Jt. Director of Education against the petitioner. In that order itself, in paragraph No.6 it was said that, the petitioner may

appeal against the order under Paragraph-126 of the Grant-in-aid-Code. The petitioner did file an appeal to the State Government on 26-8-1991 as per Anneuxre-J to the petition. The grievance of the petitioner is that, that appeal has been disposed of by a cryptic order at Annexure-K dated 15-10-1991, in which it is stated that, it was not found necessary to reconsider the order of the Jt. Director.

2. Paragraph-126 of the Grant-in-aid Code provides as under :-

" Notwithstanding anything contained in this Code, the State Govt. may all for and examine the record of any order made or decision taken under the provisions of this Code, including those passed or taken in appeal, for the purpose of satisfying itself as to the correctness or propriety of the said order or decision and if, after causing such inquiry to be made as it may deem fit, it appears to it that in any case the said order or decision should be modified, annulled or reversed, the State Government may pass such orders thereon as it deems fit. "

As per the proviso to Paragraph-126:-

" no such order shall be made by the State Government to the prejudice of any person or institution as the case may be unless such person or representative of such institution has been given a reasonable opportunity of showing cause against the order proposed to be made ".

It is obvious that the State Government has not dealt with the matter as it ought to have in exercise of its powers under Paragraph-126 of the Grant-in-aid Code. The impugned order gives no reason and simply states that, it was not found necessary to reconsider the issue. That was not the way in which the power was to be exercised under Paragraph-126 of the Code having regard to its contents.

3. The impugned order at Annexure-K to the petition cannot, therefore, be sustained and is hereby set aside, with a direction to the respondent Government to reconsider the matter and take a decision expeditiously on the applicaton/appeal dated 26th August 1991, at Annexure-J to the petition, in accordance with law keeping in view the provisions of Paragraph-126 of the Grant-in-aid Code. Rule is made absolute accordingly

with no order as to costs.

Dt: 24-8-2000. (R.K. Abichandani, J)

/vgn.